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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) NO. CR 12-0860 YGR
Plaintiff,) [FILED DECEMBER 6, 2012]
v.)
SALEEM M. KHAN,)
Defendant.)

The United States of America, pursuant to Local Criminal Rule 8-1, hereby notifies the Court that the two above-captioned cases potentially *may* be related. Saleem Khan, one of the defendants

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1 named in the more recent civil case C 14-02743 EMC filed on June 13, 2014 (*see Exhibit 1*
 2 (Complaint)) by the Securities and Exchange Commission (“SEC”), was also named as a defendant in
 3 the criminal case CR 12-0860 YGR previously pending before the Honorable Yvonne Gonzalez Rogers
 4 (*see Exhibit 2 (Indictment)*)).

5 The criminal case CR 12-0860 YGR alleged crimes related to the defendant Khan’s scheme to
 6 defraud banks and his false statements to banks. The Court sentenced the defendant Khan to serve 21
 7 months’ imprisonment in March 2014. On June 27, 2014, the Court denied the defendant’s motion for
 8 bail pending appeal. The Court’s restitution order is forthcoming.

9 The civil case C 14-02743 EMC alleges Khan’s involvement in insider trading with respect to
 10 securities of Ross Stores and Taleo.

11 Although the cases do not strictly deal with the “same alleged events, occurrences, transactions
 12 or property,” *see* Crim. L. R. 8-1(b)(1), the Indictment in case CR 12-0860 YGR alleges that the
 13 defendant Khan failed to disclose to the victim bank that he had “earned more than \$870,000 by buying
 14 and selling options and by conducting other transactions through brokerage accounts.” *See* Ex. 2, ¶ 16.
 15 In the complaint in C 14-02743 EMC, the SEC alleges that Khan and others committed civil violations
 16 of the Securities Exchange Act, 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5, by engaging in fraudulent
 17 insider trading, which the SEC alleges resulted in securities trading profits. Based on the United States’
 18 review of the SEC’s complaint and knowledge of the facts of the case, it believes that these trading
 19 profits include those referenced in ¶ 16 of the Indictment in case CR 12-0860 YGR.

20 On June 13, 2014, the SEC filed an Administrative Motion to Consider Whether Cases Should
 21 be Related in case C 14-02743 EMC (doc. 8). The United States is informed and believes that the SEC
 22 has been directed by the Clerk to present that Motion to Judge Gonzalez Rogers, but may be prevented
 23 from doing so by the court’s electronic filing system.

24 Because of the SEC’s apparent position with respect to the cases’ relatedness, and because of the
 25 slight overlap in facts between the two cases, the United States files this Notice out of an abundance of
 26 caution. However, (1) given that the criminal case against Khan is now completed in the district court
 27 and there will be no ongoing proceedings in the district court in that case and (2) given that the
 28 gravamen of the violations alleged in each of the cases is different, the United States is uncertain and

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1 takes no position as “to whether assignment to a single Judge is or is not likely to conserve judicial
2 resources and promote an efficient determination of the action.” Crim. L.R. 8-1(c)(4). Nevertheless, as
3 noted above, the United States files this Notice (1) to ensure that it has complied with the local rule and
4 (2) to give the Court an opportunity to consider for itself whether the cases meet the definition of
5 “related case” under Criminal Local Rule 8-1(b)(1)-(2), and, if so, whether assignment to a single judge
6 will meet the goal of conserving judicial resources and promoting efficiency.

7
8 DATED: June 27, 2014

Respectfully submitted,

9 MELINDA HAAG
10 United States Attorney

11 /s/

12 KYLE F. WALDINGER
13 Assistant United States Attorney